

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

FINAL SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS RELEASE AND MUTUAL SETTLEMENT AGREEMENT ("Release") is entered into by and between, Modular Technologies, Inc. ("Modular Technologies") and the Asheville City Board of Education ("ACS") (collectively referred to as "Parties").

WHEREAS, Modular Technologies and ACS entered into a lease agreement on or about June 17, 2013 (hereinafter "the Agreement") for mobile and/or modular office equipment (hereinafter "Equipment"). In accordance with the Agreement, ACS agreed to make twenty four monthly payments to Modular Technologies starting August 1, 2013 for the lease of the Equipment and ACS agreed to pay for the cost to remove the Equipment at the end of the Agreement;

WHEREAS, a dispute has arisen regarding the payment obligation of ACS and ACS's right to terminate the Agreement and/or rescind its acceptance of the Equipment under the Agreement (hereinafter the "Dispute"); and

WHEREAS, the Parties desire to resolve the Dispute.

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth and for good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged by the undersigned parties, it is hereby agreed as follows:

1. Payment: ACS agrees to pay SIXTY FIVE THOUSAND and NO/100 DOLLARS (\$65,000.00) to Modular Technologies within five (5) business days after removal of the Equipment by Modular Technologies. Payment consists of ten (10) months of rental payments and an additional \$3,000 allocated to the cost of removal if the removal is completed by July 1, 2014. Payment shall be made payable to Modular Technologies as follows: "Modular Technologies c/o Wooten & Turik, PLLC, Trust Account".

2. Mutual Release. Modular Technologies on behalf of its employees, officers, board members, representatives, attorneys, agents, successors and assigns, do hereby release, acquit and forever discharge ACS, and its employees, officers, board members, representatives, attorneys, agents, successors and assigns from any and all claims or liabilities of whatever kind or nature, known or unknown, which Modular Technologies has ever had or which it now has, arising from or related in any way to the Agreement or the Dispute.

ACS on behalf of its employees, officers, board members, representatives, attorneys, agents, successors and assigns does hereby release, waive, and forever discharge Modular Technologies, employees, officers, board members, representatives, attorneys, agents, successors and assigns from any and all claims or liabilities of whatever kind or nature, known or unknown, which ACS has ever had or which it now has, arising from or related in any way to the Agreement or the Dispute.

3. No Admission of Liability. The Parties agree that this Release represents the settlement of disputed claims, and it is not intended to be nor shall it be construed as an admission of liability on the part of either party.

4. Costs. The Parties shall pay their own costs associated with the resolution of this matter, including attorneys' fees.

5. No Waiver. No failure or delay by any party to enforce any right specified by this Release will operate as a waiver of such right, nor will any single or partial exercise of a right preclude any further or later enforcement of the right.

6. Severability. In the event any portion of this Release is determined to be invalid under any applicable law by a court of competent jurisdiction, such provision shall be deemed void and the remainder of this Release shall continue in full force and effect.

7. Entire Agreement; Amendment. The terms of this Release are contractual in nature. This Release represents the entire understanding of the parties regarding this subject matter and supersedes all prior or contemporaneous oral agreements and representations and all prior written agreements and representations concerning this Release, the Agreement or the Dispute. No provision of this Release may be amended except in writing signed by ACS and Modular Technologies that references this Release and the provision that the parties intend to amend.

8. Controlling Law. This Release shall be governed by and construed in accordance with the laws of the State of North Carolina.

9. Counterparts. This Release may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

10. Board Approval. The Parties understand and hereby agree that this "Final Settlement Agreement and Mutual Release" must be entered upon the minutes of the Asheville City Board of Education as required by N.C.G.S. § 143-318.11.

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IN ENTERING INTO THIS AGREEMENT, EACH PARTY REPRESENTS THAT THE TERMS OF THIS AGREEMENT HAVE BEEN COMPLETELY READ AND THOSE TERMS ARE FULLY UNDERSTOOD AND VOLUNTARILY ACCEPTED

Asheville City Board of Education

By: Jaquelyn Hallum

Its: Chair

Date: _____

Attest:

By: Dr. Bobbie Short

Its: Superintendent and Ex Officio Secretary

Date: _____

Modular Technologies, Inc

By: _____

Its: _____

Date: _____

6-30-14

Attest: _____

By: _____

Its: _____

Date: _____

Pre-Audit Certificate:

This instrument has been pre-audited in the manner required by the School Budget and Fiscal Control Act (N.C.G.S. § 115C-441)



Donna Watson, Finance Officer

7-1-14

Date

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Asheville City Board of Education

By: Jacquelyn Hallum

Its: Chair

Date: 7/10/14

Attest:

Pamela Baldwin

By: Dr. Pamela Baldwin

Its: Superintendent and Ex Officio Secretary

Date: 7-10-14

Modular Technologies, Inc

By:

Its:

Date: _____

Attest::

By:

Its:

Date: _____

Pre-Audit Certificate:

This instrument has been pre-audited in the manner required by the School Budget and Fiscal Control Act (N.C.G.S. § 115C-441)

Donna Watson

Donna Watson, Finance Officer

7-10-14

Date